

HOUSE JUDICIARY COMMITTEE AMENDMENT NO. 1

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

AMEND Senate Bill No. 1380

House Bill No. 795

by inserting in Section 2(c) the language "an administrative review and" between the words "make" and "a".

AND FURTHER AMEND by deleting in Section 2(c) the language "an administrative review is requested under Section 8 or a hearing is held under Section 9" and by substituting instead the language "a hearing is requested and held under Section 9 of this act".

AND FURTHER AMEND by deleting Section 4(b) in its entirety and by substituting instead the following:

The notice of proposed revocation shall be mailed to the person at the address provided in the enforcement officer's report if such address differs from the address of record. The notice of proposed revocation is deemed delivered three (3) days after mailing.

AND FURTHER AMEND by deleting from Section 4(c) the language "an administrative review and hearing, the procedure for requesting an administrative review and a hearing, and the date by which a request for an administrative review must be made in order to receive a determination prior to the effective date of revocation" and by substituting instead the following:

a hearing, and the procedure for requesting a hearing

AND FURTHER AMEND by deleting Section 4(d) in its entirety.

AND FURTHER AMEND by deleting in Section 5(b) the language "Section 55-50-403(d)" and by substituting instead the language "Section 55-50-502".

AND FURTHER AMEND by deleting the fourth sentence of Section 5(b) in its entirety.

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AND FURTHER AMEND by adding the following new subsections to Section 6(b):

(4) Persons who have no prior record as specified in Section 6(b)(1) and who submit to a chemical test in accordance with the provisions of Tennessee Code Annotated, Section 55-10-406, shall be eligible for a restricted driver license as provided in Tennessee Code Annotated, Section 55-50-502, after a minimum revocation period of thirty (30) days.

(5) Persons who have one (1) or more prior alcohol or drug-related enforcement contacts during the immediately preceding five (5) years shall not be eligible for a restricted driver license during their period of revocation under this act.

AND FURTHER AMEND by deleting in Section 7(a), the language "Section 5(b)" and by substituting instead the language "Section 6(b)".

AND FURTHER AMEND by deleting in the third sentence of Section 7(a) the language ", after a minimum period of thirty (30) days revocation".

AND FURTHER AMEND by deleting Section 8 in its entirety and by substituting instead the following:

(a) Upon receipt of the information provided by the law enforcement officer as required in Section 3(a), the department shall automatically conduct an administrative review and make a determination pursuant to Section 2 of this act.

(b) In such review, the department shall give consideration to all available information. If the department determines by a preponderance of the evidence that the

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person drove or was in actual physical control of a motor vehicle while such person had an alcoholic concentration of one-tenth of one percent (0.10%) or more, or that the person refused the test, the department shall sustain the order of revocation. If the evidence does not support such determination or if the officer fails to provide the department with required documentation within the time period specified in Sections 3 and 5 of this act, the department must immediately rescind the order of revocation. The determination of the department upon administrative review is final unless a hearing is requested under Section 9 of this act.

(c) The department shall make a determination upon administrative review at least five (5) days prior to the effective date of the revocation order. If the department is unable to make a determination within the time limits specified, it shall stay the revocation pending such determination. If the department rescinds the revocation, the department shall return, by registered mail, return receipt requested, the person's driver license.

AND FURTHER AMEND by deleting Section 9(a) in its entirety and by substituting instead the following:

Any person who has received a notice of proposed revocation may, within twenty (20) days of receipt of the notice, make a written request for a hearing on forms provided by the department to the address provided on the form. If the person's driver license

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has not been previously surrendered, it must be surrendered at the time that request for hearing is made. A request for hearing does not stay the license revocation.

AND FURTHER AMEND by adding the following new section to be appropriately designated immediately before the effective date section and renumbering that section accordingly:

Section \_\_\_\_\_. The implementation and effectiveness of this act shall be subject to a mandatory review not later than four (4) years after it becomes a law. The review shall be conducted by the department of safety and shall include a survey of license revocations, citizen complaints, law enforcement personnel opinions, and an estimate of the effect of this act on reducing driving while intoxicated and accidents resulting therefrom.

AND FURTHER AMEND by deleting from the first sentence of subsection (a) of SECTION 9 the word and figure "twenty (20)" and substituting instead the word and figure "thirty (30)".

AND FURTHER AMEND by deleting the second sentence of subsection (b) of SECTION 10 and substituting instead the following:

The standard to be used by the chancery court in deciding whether the department's determination should be affirmed or reversed is whether there is or is not a preponderance of evidence to support such determination.